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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,859	02/07/2000	Mark Held	FORE -58	1830

7590 03/26/2003

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EXAMINER

MOLINARI, MICHAEL J

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 03/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/499,859

Applicant(s)

HELD ET AL.

Examiner

Michael J Molinari

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al. (U.S. Patent No. 5,446,730).

3. Referring to claim 8, Lee et al. disclose a method for establishing circuits in an ATM network comprising the steps of: attempting to form a connection in an ATM network satisfying original quality of service requirements (see column 4, lines 43-36); rejecting the formation of the circuit due to resources of the ATM network not being available to meet the original quality of service requirements of the circuit; relaxing automatically the quality of service requirements of the circuit; and creating the circuit in the ATM network subject to the relaxed quality of service requirements (see column 4, lines 43-48).

4. Referring to claim 9, Lee et al. disclose that the relaxing step includes the step of relaxing automatically and selectively the original quality of service requirements by choosing different quality of service requirements than the original quality of service requirements (see column 4, lines 43-48 and note that initially Routing tries to satisfy requested QoS, but if it fails it then tries to satisfy acceptable QoS).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (U.S. Patent No. 5,446,730) in view of Dighe et al. (U.S. Patent No. 5,530,695).

3. Referring to claim 1, Lee et al. disclose an apparatus for establishing circuits in an ATM network comprising: a controller which attempts to establish a circuit according to original quality of service requirements (see column 4, lines 43-46), which determines available resources of the ATM network (see column 4, lines 43-46) and which automatically relaxes the original quality of service requirements associated with a circuit for the circuit to be formed in the ATM network with the available resources of the ATM network (see column 4, lines 46-48); and a memory which stores a plurality of different quality of service requirements, said memory connected to the controller for the controller to obtain different quality of service requirements for the controller to automatically relax the original quality of service requirements with different quality of service requirements (see column 4, lines 35-41). Lee et al. differ from claim 1 in that they fail to disclose the use of a UPC associated with the circuit. However, the use of UPCs in ATM networks is well known in the art. For example, Dighe et al. teach the use of a UPC approach, which has the advantage of providing a unified and scalable solution to the issue of QoS (see Abstract). One skilled in the art would have recognized the advantage of using UPCs in an ATM network as taught by Dighe et al. Therefore, it would have been obvious to a person

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with ordinary skill in the art at the time of the invention to incorporate the use of UPCs in an ATM network as taught by Dighe et al. into the invention of Lee et al. to achieve the advantage of providing a unified and scalable solution to the issue of QoS.

4. Referring to claim 2, Lee et al. disclose that the controller automatically selectively relaxes the quality of service requirements by choosing a different quality of service requirement (see column 4, lines 46-48).

5. Referring to claim 3, Lee et al. disclose that the memory includes an index having the different quality of service requirements ordered in terms of priority for the controller to choose when the controller relaxes the original quality of service requirements and attempts to establish the circuit (see column 4, lines 35-41).

6. Referring to claim 4, Lee et al. differ from claim 4 in that they fail to disclose that the controller places a flag in the memory for the circuit when the circuit is established with relaxed quality of service requirements. However, the examiner takes official notice that it is conventional in the art for ATM switches to contain tables in memory containing entries for each connection supported by that switch. Such a table would include circuits with relaxed QoS requirements.

7. Referring to claim 5, Lee et al. disclose that the controller periodically reexamines the ATM network resources and attempts to establish the circuit with the original quality of service requirements in the ATM network (see column 5, lines 52-58, and see column 6, lines 64-67 and column 7, lines 1-2).

8. Referring to claim 6, Lee et al. disclose that the controller attempts to establish the circuit with the original quality of service requirements, if the original quality of service requirements of

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the circuit cannot be satisfied, the controller attempts to establish the circuit with the quality of service requirements in the index according to their priority until quality of service requirements with a higher priority than the quality of service requirements that the circuit is currently established under in the network is found (see column 4, lines 35-48).

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. in view of Dighe et al. as applied to claim 6 above, and further in view of Burns et al. (U.S. Patent No. 6,442,132).

10. Referring to claim 7, Lee et al. differ from claim 7 in that they fail to disclose that the circuit is an SPVx circuit. However, the use of SPVCs in ATM is well known in the art. For example, Burns et al. teach the use of SPVCs, which have the advantage of being more robust and efficient than PVCs (see column 1, lines 12-39). One skilled in the art would have recognized the advantage of using SPVCs as taught by Burns et al. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention to incorporate the use of SPVCs as taught by Burns et al. into the invention of Lee et al. in view of Dighe et al. to achieve the advantage of using connections that are more robust and efficient than PVCs.

11. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (U.S. Patent No. 5,446,730).

5. Referring to claim 10, Lee et al. disclose that the relaxing automatically and selectively step includes the step of choosing the different quality of service requirements from a plurality of different quality of service requirements (see column 4, lines 35-48 and note that the system creates multi-level preferences). Lee et al. differ from claim 10 in that they fail to disclose the use of a controller and a memory having an index. However, the Examiner takes official notice

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that the use of controllers and memories with indexes in ATM switches are conventional in the art. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention to implement the invention of Lee et al. using a controller and a memory with an index.

12. Referring to claim 11, Lee et al. disclose that, before the attempting step, there is the step of establishing the different quality of service requirements, each with a priority relative to each other and the original quality of service requirements (see column 4, lines 35-48 and note that the sets are established and then the setup uses the previously defined sets of QoS). Lee et al. differ from claim 11 in that they fail to disclose the use of an index. However, the Examiner takes official notice that the use of a memory with an index in an ATM switch is conventional in the art. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention to implement the invention of Lee et al. using a memory with an index.

13. Referring to claim 12, Lee et al. differ from claim 12 in that they fail to disclose that, after the recreating step, there is the step of placing a flag in the memory by the controller corresponding with the circuit that is established with relaxed quality of service requirements. However, the examiner takes official notice that it is conventional in the art for ATM switches to contain tables in memory containing entries for each connection supported by that switch. Such a table would include circuits with relaxed QoS requirements.

14. Referring to claim 13, Lee et al. disclose that, after the creating step, there are the steps of re-examining the ATM network resources and attempting to establish the circuit with the original quality of service requirements in the ATM network (see column 5, lines 52-58, column 6, lines 64-67, and column 7, lines 1-2).

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15. Referring to claim 14, Lee et al. disclose that, after the attempting to establish step, there is the step of attempting to establish the circuit with the different quality of service requirements in the index according to their priority until different quality of service requirements with a higher priority than the quality of service requirements that the circuit is currently established under in the network is found (see column 4, lines 35-48).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. U.S. Patent No. 6,154,778 to Koistinen et al. teaches a method of negotiating QoS in an ATM connection based on sets of multi-category QoS categories.

18. U.S. Patent No. 6,314,085 to Saranka teaches the use of a QoS table for storing possible QoS categories for use in call admission in an ATM network.

19. U.S. Patent No. 5,644,715 to Baugher teaches a method of call admission negotiation in an ATM network where a caller specifies min, max, and desired QoS values and the network checks to see if it can offer the desired QoS and, if not, lowers the QoS value it is able to provide to the user or rejects the call.

20. U.S. Patent No. 5,898,668 to Shaffer teaches a method of an ATM network continuously monitoring connections to see if they can be further optimized.

21. U.S. Patent No. 5,504,744 to Adams et al. teaches the use of a usage parameter controller (UPC) in an ATM network.

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22. U.S. Patent No. 5,289,462 to Ahmadi et al. teaches a method of call setup in an ATM network.
23. U.S. Patent No. 6,304,551 to Ramamurthy et al. teaches a method of renegotiating UPC values for traffic streams in an ATM network.
24. U.S. Patent No. 5,943,321 to St.-Hilaire et al. teaches the use of an SPVC table in an ATM switch, which contains entries for each of the SPVCs that are handled by the switch.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Molinari whose telephone number is (703) 305-5742. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (703) 308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

MJM

Michael Joseph Molinari
March 17, 2003


HUY D. VU
SUPERVISORY PATENT EXAMINER
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